THE
MADRAS LAW JOURNAL.

II] OCTOBER [1939

COPY OF A BILL TO AMEND S. 100, CIVIL PROCEDURE CODE, WHICH MR. Q.M.D. AHMED KAZMI (M.L.A.), ALLAHABAD, INTENDS MOVING IN THE CENTRAL LEGISLATIVE ASSEMBLY.

BILL.

Further to amend the Code of Civil Procedure of 1908 for certain purposes.

WHEREAS it is expedient to further amend the Code of Civil Procedure of 1908 for the purposes hereinafter appearing; It is hereby enacted as follows:—

This Act may be called THE CODE OF CIVIL PROCEDURE (AMENDMENT) ACT OF 1939.

2. In sub-S. (1), S. 100 of the Code of Civil Procedure after the ground (*c*) add the following:—

" (*d*) the original decree of the trial Court having in appeal been varied, cancelled or reversed:

Provided that a High Court, while hearing a second appeal on any of the grounds (*a*), (*b*) or (*c*) above, may in its discretion determine the correctness or otherwise of the decision on points of fact also if it thinks that the decision of the Court below is erroneous or unjust."

Statement of Objects and Reasons.

S. 100 of the Code of Civil Procedure deals with the grounds of second appeal in civil suits. The grounds given there are as follows:—

(*a*) the decision being contrary to law or to some usage having the force of law,

(*b*) the decision having failed to determine some material issue of law or usage having the force of law,

(*c*) a substantial error or defect in the procedure provided by this Code or any other law for the time being in force which may possibly have produced error or defect in the decision of the case upon merits.

This section corresponds to S. 584 of the Code of 1882 and S. 372 of the Code of 1859 with only a slight variation. The first two grounds deal with a mistake of law and the third ground with a mistake of legal procedure, and apparently a mistake of fact does not come in the scheme of this section at all, unless we can bring it in the words "error or defect in the decision of the case upon merits", resulting from the adoption of illegal procedure. It is rightly suggested that this provision of imposing limitations on the grounds that may be taken in second appeal is based on grounds of public policy expressed in the maxim *interest reipublicae ut sit finis litium,*—it concerned the state that there be an end to litigation. But on a perusal of the earlier legislation of the East India Company, it would appear that another and probably the main reason for the original limitation was the curtailment of work before the appellate Court. In the early days of the British Rule there used to be no District Courts of Appeal and only one appeal lay to the Sadar Dewany Adawlat which at the time consisted of the Governor-General and the members of the Supreme Council, who naturally could not be expected to devote much time to work of this kind. The Sadar Dewany Adawlat held its sitting at Calcutta and the distance of the Mufassil Courts from Calcutta was one of the safeguards against the increase of work; the other safeguards adopted was that an appeal was allowed only in respect of properties of large valuation.

The first attempt for providing facilities for appeal was made in 1793, when Provincial Courts of Appeal were established by Regulation V of 1793. Article 1 of this Regulation which can be termed a preamble according to our modern notions says:—

> "Parties in suits instituted in the late Courts of Mufassil Dewani Adawlat who considered themselves aggrieved by the decisions of those Courts, had no tribunal to which they could apply themselves but the Sadar Dewani Adawlat, or Court of Appeal at Calcutta."

After this the preamble records that for the facility of the litigant public Provincial Courts of Appeal have been established. The powers of hearing appeals were given to Circuit Judge and the idea of not unduly increasing the work before the Sadar Dewani Adawlat led to the adoption of the rule that second appeals could only be on points of law.

Though later on gradually and with certain variations the Governor-General in Calcutta and the Governors in Madras and Bombay with their Council ceased to constitute the Sadar Dewani Adawlat which came to be presided over by permanent judges and was later on replaced by the High Courts, yet the same old rule about second appeals continues on the Statute Book with certain variations.

On whatever principle we may justify this rule it is intended to be a restriction on the rights of the litigant public and in actual practice it is a restriction on the rights of the High Courts also. After creating a High Court of Judicature for administering justice in the province how can the Government be justified in restricting its power in its administration, and it is an undeniable truth that the High Courts have been compelled to restrict their activities due to this provision of law. In their eagerness to do justice to the litigants the various High Courts have very much reduced the rigour of the provisions of this section of Civil Procedure Code by giving liberal interpretation to clause (*c*) which as pointed out above can be made to cover points of facts as well; yet the struggle has been a serious and continuous one and the British Indian Courts of Justice had to yield to the rigour of the section by holding:—

"The law obviously aims at finality of decision upon questions of fact in cases which do not come up to the High Courts in the first appeal, and I should say that when the Court of first appeal, after having entered into the merits of the case, has considered the evidence and adjudicated upon the merits in the manner required by S. 574 (now O. 41, r. 30) the mere circumstance that the conclusion at which the Court has arrived at are erroneous, or opposed to weight of evidence, will not justify interference in second appeal, even though such conclusions proceed upon an improper conception of the exact effect and bearing of the case upon merits." (Mr. Justice Mahmud in *Nivath Singh* v. *Bhikki Singh*[1].)

These remarks are very significant and show the restrictions on the powers of the High Courts of Justice in India. They were made in connection with a reference which was made to a Full Bench by Petheram, C. J., and Brodhurst, J., of Allahabad. They wanted to know whether the question raised in the two cases before them in the following grounds of appeal could be made the subject of second appeal:—

"(1) Because the lower Court has erred in deciding the case on conjectural grounds and ignoring the whole evidence,

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1. (1885) I.L.R. 7 All. 649 (659) (F.B.).

(2) Because the lower Court has erred in reducing the amount covered by the registered bond of 8th December, 1877,

(3) Because the lower Court has assigned no reason for disallowing the item of Rs. 72-15" and "because the lower appellate Court has erred in law in awarding the sum of Rs. 168 compound interest, including other sums not lawfully due by the vendor to the respondent vendee of the share in suit."

Evidently these grounds appear to relate to errors in the determination of facts, and Petheram, C.J., who was a member of the Full Bench, was of this very opinion. He observed:—

"The question raised by this reference is, whether this Court is at liberty, in second appeals, to look into the evidence in the cause for the purpose of ascertaining whether the lower Courts have found the facts correctly."

Then expressing his own views, he said:

"I am of opinion that the question must be answered in the negative. I am aware that this opinion differs from many rulings of the High Courts in India, and from that of my brother Judges, but as I think the words of the statute are clear, *and that if they are liable to create injustice, the remedy should be applied by the legislature,* I feel it to be my duty to disagree with the many authorities which I have mentioned. S. 585, Civil Procedure Code, provides that no second appeal shall lie except on the grounds mentioned in S. 584, so that the question resolves itself into one of the construction of that section, and of that section alone. There are only three grounds of appeal mentioned in it, and it will be as well to examine them in detail."

Then his Lordship examined these grounds of appeal seriatim, and disposed of the first two grounds as they did not apply to the case. Then he took up the third ground which in the Old Code ran:

"A substantial error or defect in the procedure as prescribed by the Code or any other law, which may possibly have produced error or defect in the decision of the case upon the merits."

Regarding this the Chief Justice observed:—

"Procedure is a perfectly well-known word among lawyers, and means the practice followed by the Courts in the trial of cases which come before them; but, until it became necessary for the purpose of extending second appeals under the Code to questions of fact, *I am not aware that the mental process by which a Judge and jury came to a conclusion on a question of fact was ever called a matter of procedure,* and, in my opinion, it is impossible to fix that meaning to the word."

Then with regard to the case before him he observed:—

"This being my view of S. 584, it of course follows that no question of fact is included in either of them, and it would seem that the intention of legislature was that in small causes the finding of the lower Courts on questions of fact should be absolutely final. . . . ."

Then other Judges of the Bench, however, gave a more extended interpretation to cl. (c) read with S. 574, which enacted that the judgment of the first appellate Court shall

contain 'the reasons of the decision; they said:

"We think that where a lower appellate Court has drawn strained or unreasonable conclusions from evidence, or has discredited or disbelieved witnesses or documentary proof upon capricious or unsustainable grounds, or has perversely interpreted or shut its eyes to proved facts, or has stated no intelligible reasons for arriving at its findings of facts, this Court may take notice of all such matters in second appeal."

Ultimately the Bench justified its opinion by saying:—

"If this Court had not the power in second appeal, we hold it has, to remand a case to the lower appellate Court for the preparation of a legal judgment properly determining the question or questions of fact, we know by experience that great injustice might often be done and it would come to this,—that we should be bound by the mere *ipse dixit* of a lower appellate Court in respect of the issues of fact, no matter how preposterous its findings might be. We cannot believe it was ever intended by the legislature that in such a case there shouldbe an absolute defect of jurisdiction in this Court to examine such findings in second appeal. Our answer to the reference therefore is that the questions raised in S. A. No. 169 of 1884 by the pleas in appeal were questions that might be made the subject of second appeal."

It was in this way that they reconciled to their sense of justice with the word of the section and that continues to be the generally accepted legal view till to-day. In an earlier case reported in *Futtehma Begum* v. *Mohamed Ausuri*, the sense of equity of Mr. Justice Wilson appears to have revolted against such restrictions on the powers of the High Court in second appeal, and without referring to S. 584 he observed:—

"It is not the ordinary course of procedure for this Court to interfere in second appeal with any findings of fact which have been arrived at by the lower appellate Court; but we are well within the scope of authorities in holding that where the lower appellate Court has clearly misapprehended what the evidence before it was, and has thus been led to discard or not give sufficient weight to important evidence, and to give weight to other evidence to which it is not entitled, and has thus been led not into any mere incidental mistake, but totally to misconceive the case, this Court may interfere."

Thus a way has been found to mete out justice to the litigants in spite of the rather strict language of the section. But it has opened a door to a continuous struggle. It has led to fine distinctions between questions of facts and questions of law and some classes of questions had perforce to be relegated to the region of 'questions of mixed law and fact'. The question of construction of documents of title has led to another difficulty. Construction of documents of title has been held to be a question of law, but construction of documents which support the title is to be considered a question of fact. Questions relating to customs have given High Courts no less trouble. A finding that

1. (1882) I.L.R. 9 Cal. 309.

a certain practice or custom does or does not prevail is regarded as a finding of fact, while the question whether the prevailing practice has the attributes of a legally binding custom is held to be a question of law. In *Municipal Board, Benares* v. *Kandhaiya Lal*[1], their Lordships Banerji, Young and King, JJ., of the Allahabad High Court set aside the finding of the lower appellate Court to the effect:—

"That it is not proved that the practice of zar-i-chaharum ever prevailed in Kucha Champa Shahid."

They observed:

"We think this must be held to be a finding of fact binding upon this Court in second appeal, unless it can be shown that the finding is vitiated by some error of law."

On a close examination of the documentary evidence on the record they remarked:

"The learned Judge was therefore clearly under a misapprehension when he said that the Qabuliats do not refer to the custom. We think the misreading or ignoring of important documentary evidence amounts to substantial error or defect in the procedure within the meaning of S. 100 (1) (*c*), Civil Procedure Code and justifies the Court in reversing the finding if we hold such reversal justified on the merits."

In the end they held:

"*Upon consideration of the whole of the evidence* we think the plaintiff has proved the prevalence of the practice in the locality in question"

and thus set aside the finding of the Court below which at first sight appeared to be only a finding of fact.

Similarly it has been held:—

"Proper effect of proved facts is a question of law, and the meaning of words is a question of fact and their effect is a question of law."

Just as I have said above the rigour of S. 100 has been much smoothened by a liberal interpretation by the High Courts in India. But that is not all. It is also the duty of the legislature to be prepared to review its Acts in the light of experience and it is time that we should try to appreciate the difficulties and remove the handicaps from which the Highest Courts of Justice in India are suffering. The restriction which forces a High Court not to interfere in a case, even when it feels:

"That the conclusions at which the Court has arrived at are erroneous or opposed to weight of evidence—even though such conclusions proceed upon improper conception of the exact effect and bearing of the case upon merits"

does not become the Highest Court of Justice of a country.

1. A.I.R. 1931 All. 499 (S.B.).

It is to meet this need that the present amendment is being moved. Its object is twofold. It gives the High Court full liberty in cases where the lower appellate Court has modified or reversed the decree of the trial Court. In such a case the High Court must be allowed to judge the validity of the judgment for itself on merits. In cases where the two judgments are concurrent and the High Court on hearing the case finds that there has been a serious error of facts also, it must be given discretion to interfere when it thinks fit, and we can safely rely upon the proper exercise of discretion by the Highest Court of Justice in India.

SUMMARY OF ENGLISH CASES.

In re A JUDGMENT-DEBTOR : JUDGMENT-CREDITOR *v.* JUDGMENT-DEBTOR, (1939) 1 Ch. 601.

Bankruptcy—Foreign judgment registered under the Foreign Judgments (Reciprocal Enforcement) Act, 1933, *S.* (2) 2—*Bankruptcy notice founded on the judgment—Competency.*

Where the judgment-debtor sought to set aside a bankruptcy notice founded on a judgment of a competent Court in France, which had been registered under the Foreign Judgment (Reciprocal Enforcement) Act, 1933, on the ground that the only relief which the holder of the judgment had was by way of execution.

Held, the foreign judgment when registered is in the same position as if it was a final judgment of an English Court for the purposes of bankruptcy notice; and it is not prevented from becoming the basis of a bankruptcy notice.

SHENTON *v.* TYLER, (1939) 1 Ch. 620.

Practice—Discovery—Privilege—If widow entitled to claim in respect of communications during marriage by husband.

Plaintiff sought to administer to the defendant certain interrogatories designed to obtain admissions to the effect that a secret trust in favour of the plaintiff was imposed upon the defendant by her late husband before his death. Defendant objected on the ground that she was not bound to answer questions relating to a communication made to her by her husband. [Simonds, J., upheld the objection. (1939) 1 Ch. 271.] On appeal after discussing the history of the rule,

Held, the only rule that exists is that contained in S. 3 of the Evidence Act of 1853 which in terms relates only to husbands and

wives and you cannot read into the section a reference to widowers or widows or divorced persons. The widow is not entitled to refuse to answer the interrogatories.

In re COWLISHAW: COWLISHAW *v.* COWLISHAW, (1939) 1 Ch. 654.

Will—Bequest of annuity free of all deductions—If annuity payable to be free of income-tax.

A bequest of an annuity to the testator's widow provided that it was to be "paid free of all deductions whatsoever,"

Held, the expression "deductions" must include income-tax and the annuity is payable to the widow free of income-tax.

In re WARREN: PUBLIC TRUSTEE *v.* FLETCHER, (1939) 1 Ch. 684.

Trust Funds—Investments specified by the will—Powers of investment conferred by Statute—Whether prohibited.

The mere provision in a will for investment in a list of specified investments, with no negative provision, did not amount to an express prohibition and the trustee had the powers of investment conferred by statute.

In re MUSCOVITCH, (1939) 1 Ch. 694.

Bankruptcy Rules (1915), *rr.* 132, 385 *and* 386—"*Forthwith*"—*Meaning of—Notice of appeal not sent* "*forthwith*"—*If mere irregularity—Power to extend time when to be exercised.*

An appeal against an order suspending discharge in bankruptcy was entered on 25th October, 1938, and the notice of appeal (which under the Bankruptcy Rules, 1915, r. 132, is required to be sent "forthwith" to the Registrar of the Court appealed from) was effected on 28th October, 1938.

Held, the notice was not sent "forthwith" within the meaning of the rule, and it was not a mere irregularity which can be cured under Bankruptcy Act, 1914, S. 147 (1), or under Bankruptcy Rules, r. 385. There were no special circumstances sufficient to enable the Court to extend time under r. 386.

In re FRAME: EDWARDS *v.* TAYLOR, (1939) 1 Ch. 700.

Will—Bequest on 'condition' that legatee adopts testator's daughter—If a trust—Inability of legatee to obtain adoption order—If trust to fail.

A testator bequeathed all his money and insurance policies "on *condition* that the legatee adopted one of the testator's named daughters and gave a sum of £5 each to his other three daughters and son."

Held, the word "condition" is not used in its strict legal sense. It is a gift on condition, in the sense of, on the terms, or on the trust that the legatee does certain things. It imports a trust and though the devisee or legatee dies before the testator, and the gift does not take effect, yet the payments must be made, for it is a trust and no trust fails for want of trustees. So the inability of the legatee to obtain an adoption order cannot allow the trust to fail.

In re WILLS: DULVERTON *v.* MACLEOD, (1939) 1 Ch. 705.

Will—Beneficiaries bringing into hotchpot advances—Interest on advance from testator's death—Liability.

Where an advanced beneficiary has under a clause in the will to bring the capital amount of his advance into hotchpot against his share of the capital of the estate some means must be devised of equalising the position in regard also to the income of the estate, for it would be unfair that the advanced beneficiary should at once enjoy the interest of the sum advanced and be placed in the same position as unadvanced beneficiaries in regard to the income earned by the capital of the estate before distribution. The advanced beneficiaries will be charged with interest at 4 per cent. on their advances from the death of the testator the amount of such advances being determined by the value of the settled securities as at the date of the settlement.

In re DAVID MOSELEY AND SONS, LTD., (1939) 1 Ch. 719.

Company—Provision for retirement of one-third of ordinary directors by rotation.

The articles of association provided that at every annual general meeting one-third of the ordinary directors, or if their number was not a multiple of three, then the nearest number to, but not exceeding, one-third should retire from office (those who had been longest in office to be the ones to retire). When the number of ordinary directors became reduced to two in number,

Held, neither of them was bound to retire under the article.

SUPERMA, LTD. *v.* TENOONI, (1939) 1 Ch. 724.

Patents and Designs Act (1907-1938), *S.* 35*—Action for infringement of patents—Striking out defence and counter-claim for default in discovery—If certificate of validity of patent under S.* 35 *can be granted—R. S. C., O.* 53-*A, r.* 20*—Proceeding to trial—Meaning.*

In an action for infringement of patent, the defence and counter-claim for revocation of the patent were ordered to be struck out owing to the failure of the defendant to comply with an order for delivery of an affidavit of documents. At the trial, the plaintiff

asked for a certificate under S. 35 of the Patents and Designs Act, 1907-1938 of validity of the patent.

Held, as there is only a statement of claim containing allegations which are not disputed (because the defence and counter-claim were struck out) the certificate under S. 35 cannot be given and the case had not proceeded to trial under R.S.C., O. 53, r. 20, and the costs of the issues raised by the particulars of breaches are in the discretion of the Taxing Master.

ADAIR (J.F.) & CO. *v.* BIRNBAUM, (1939) 2 K.B. 149.

Contract—C. I. F. contract for sale of pepper—Contract incorporating Rules of General Produce Brokers' Association—Clause in rules that on seller admitting failure to fulfil the contract the buyer should invoice back and difference in price to be paid in cash—If not a wagering contract—Enforceability.

The rules and conditions of sale of the General Produce Brokers' Association contain, *inter alia*, the following provisions :—" ......(*f*) Whenever it may be admitted by the seller, or decided by arbitration, that the seller has failed to fulfil the terms of the contract, the buyer shall 'close,' by invoicing back the contract to the seller at once, at a price and weight to be fixed by arbitration....... the difference between the contract price and invoicing back price to be paid in cash within seven days;........"

"......If before the maturity of any contract either party liable on the face thereof shall suspend payment, or be a defaulter, or issue a notice convening a meeting of his creditors, or become bankrupt or insolvent, such contract shall thereupon be closed (on 48 hours' previous notice) upon terms to be fixed by arbitration...." In a series of contracts for the sale of a large quantity of pepper incorporating the rules the seller intimated his failure to fulfil the contracts and claimed to have the contracts closed by invoicing back to himself. Also the seller had become insolvent before the maturity of the contract.

Though the Court of Appeal felt that the contracts may be wagering ones they felt bound by the majority view in *Lancaster* v. *Turner & Co., Ltd.*, (1924) 2 K.B. 222 and *Lang* v. *Crude Rubber Washing Co.*, (1912) (since reported in (1939) 2 K.B. 173 as footnote to this case) and

Held, that though the seller was the defaulter the buyer was bound to close by invoicing back the contract to the seller at the price and weight to be fixed by arbitration under r. 9 (*f*) notwithstanding that the seller had become insolvent before the maturity of the contract. Leave to appeal to the House of Lords was given.

ELLIS *v.* RAINE, (1939) 2 K.B. 180.

Fatal Accidents Act, 1846 *and Law Reform Act*, 1934—*Claim for damages by parents for death of child due to negligence of defendants' driver —Award of damages by jury under Fatal Accidents Act only—If retrial to be ordered.*

Where a jury though properly directed awarded to the plaintiffs, the parents of a child of 8 years killed in a motor accident due to the negligence of the defendants' driver, damages only under Fatal Accidents Act, 1846 and nothing for the loss of expectation of life under the Law Reform Act, 1934.

Held, there must be a new trial on the issue of damages. The Fatal Accidents Act deals with pecuniary loss only. If parties who will benefit under the Fatal Accidents Act and Law Reform Act are the same they must not to any extent be allowed to have their damages twice over.

MARRISON *v.* BELL, (1939) 2 K.B. 187.

Master and servant—Sickness of servant—If suspends his right to wages under the contract of service—Receipt of benefit under National Health Insurance during sickness—If affects his right to wages for the period.

Under a contract of service irrespective of the question of the length of notice provided by that contract, wages continue through sickness and incapacity from sickness to do the work contracted for until the contract is terminated by a notice by the employer in accordance with the terms of the contract. The benefits under the National Health Insurance Act is irrespective of the amount of wages as determined by the workman's individual contract of service. So the workman was entitled to recover the wages till the termination of the contract.

Case-law reviewed.

SHIRLAW *v.* SOUTHERN FOUNDRIES, (1939) 2 K.B. 206.

Companies—Contract of employment of Managing Director for 10 *years —Implied term—Alteration of articles giving power to remove director— Exercise of power—Liability of company for breach of contract.*

The S.F. Company agreed by contract of 21st December, 1933, to employ the plaintiff as Managing Director (for which he had to be director also) for ten years and the company could not remove him under the articles of association and defeat the provisions of the contract, which they had power to make. In April, 1936, the company altered its articles which gave power to F.F., Ltd., the second defendants who had acquired financial control of S.F. to remove any director of S.F. company and also provided that an appointment as

managing director should determine if he ceased from any cause to be a director. On 25th March, 1937, the F.F., Ltd., exercised the power to remove the plaintiff from being a director of S.F. and *ipso facto* his managing directorship ceased. In a claim by the plaintiff for damages for breach of contract,

Held (Sir Wilfrid Greene, M.R., dissenting) granted that a company cannot be deprived of its right to alter its articles it is wrong to say that by an alteration the company can put it into the power of some one else to do in relation to an existing contract that which it could not do itself. It must be an implied term of the contract that the company would not so alter its articles as to put it in the power of itself or anyone else to determine the contract. The defendants are liable for damages for breach of contract.

UXBRIDGE PERMANENT BENEFIT BUILDING SOCIETY *v.* PICKARD, (1939) 2 K.B. 248.

Principal and agent—Fraud committed within agent's ostensible authority —Liability of principal for damages.

The defendant was a solicitor practising in London with a branch office at Slough managed by a clerk who with the help of some forged title deeds induced the plaintiff to advance a loan on a fictitious mortgage. In a claim for damages for the fraud of the defendant's agents,

Held [affirming the decision of Atkinson, J., (1939) 1 K.B. 266] where a fraud is committed within agent's ostensible authority the principal is liable and the rule in *Lloyd* v. *Grace, Smith & Co.*, (1912) A.C. 716, applied.

ROBINSON *v.* STERN, (1939) 2 K.B. 260.

Evidence Act (1938), *S.* 1 (3)—*Statement by defendant to police immediately after accident—Admissibility as evidence in suit for damages for injuries in the accident.*

The defendant who was driving a motor car, immediately after an accident causing injuries to the plaintiff, made a statement to the police. In an action for damages for the injuries, the defendant's statement to the police was admitted in evidence. On appeal,

Held, assuming the statement to have been a document within the meaning of S. 1 (*i*) of the Act the circumstances were such as to make the statement inadmissible by reason of the provisions of sub-S. (3) of that section which provides "Nothing in this section shall render admissible as evidence any statement made by a person interested at a time when proceedings were pending or anticipated involving a dispute as to any fact which the statement might tend to establish."

BAXTER *v.* GAPP & CO., (1939) 2 K.B. 271.

Principal and agent—Estate agent—Gross over-valuation of property by—Mortgage on footing of valuation—Liability of agent for negligence—Damages—Measure of.

In a suit by plaintiff against the defendant for damages for negligence in acting as valuers of property as a result of which the plaintiff in reliance on that valuation advanced money by way of mortgage,

Held, a person who undertakes the duty of valuing property holds himself out as possessing the necessary experience and skill required for the discharge of that duty. Where, by reason of the lack of knowledge and experience, he made a over-valuation of the property, whereby, the plaintiff suffered loss, the plaintiff is entitled to recover the loss which he has sustained owing to the breach of duty, namely, the loss of interest and the loss of his capital. (1938) 4 All.E.R. 457, affirmed.

E. E. & BRIAN SMITH, LTD. *v.* WHEATSHEAF MILLS, LTD., (1939) 2 K.B. 302.

Arbitration—Successive arbitrations under one cause of action—Validity.

A clause in a contract provided that all disputes from time to time arising out of the contract shall be referred to arbitration. The mercantile custom to decide first the question as to whether or not a particular parcel of goods is such that it can be rejected before going into any question of damages which might arise upon the hypothesis that it can be rejected is a convenient one. It is not necessary to have every possible claim before the arbitrators in the first instance. A second claim and arbitration is not barred as the agreement excludes, the rule that all reliefs under one cause of action should be claimed in one proceeding.

NEWSTEAD *v.* LONDON EXPRESS NEWSPAPER, LTD., (1939) 2 K.B. 317.

Libel—Statement complained of true about existing person of same name as plaintiff—Effect.

Where the writer of an alleged libel has in his mind a person other than the plaintiff and where what he writes is true of that other person the principle laid down in *Hulton & Co.* v. *Jones*, (1910) A.C. 20, is applicable. It does not matter what the writer of a libel means or intends to mean. His meaning is to be discovered from the expressions which he uses and which he puts into permanent form on paper or some such medium.

STIMPSON *v.* PORTSMOUTH CORPORATION, (1939) 2 K.B. 327.

Electricity (Supply) Act (1919), *S.* 16, *as amended in* 1922 *and* 1933 *—Transfer of undertaking—Compensation for loss of employment.*

If as a result of the transfer of an undertaking some one employed by any authorised undertaking can show that he has lost his employment he is entitled to claim compensation.

LONDON PLYWOOD AND TIMBER CO. *v.* NASIC OAK EXTRACT FACTORY AND STEAM SAWMILLS CO., (1939) 2 K.B. 343.

Sale of goods—Delivery of goods contracted for mixed with goods of different description—Buyer's right to reject—Acceptance and appropriation of part of the goods to contract—If affects buyer's right to reject.

Where the sellers delivered to the buyers the goods they contracted to sell mixed with goods of a different description not included in the contract the buyers are entitled to reject the whole. The fact that part of the goods had been accepted by the buyers and appropriated to the contract does not prevent the buyers relying on the right to reject.

CHANT *v.* READ, (1939) 2 K.B. 346.

Married Woman's Property Act (1882), *S.* 12 *and Married Women and Tortfeasors Act* (1935), *S.* 6 (1) (*c*)*—Tort—Negligence—Loss of expectation of life of wife—Claim against husband for contribution by joint tortfeasor—Sustainability.*

A married woman who is killed in a motor collision by reason of the negligence of her husband in driving the car in which she is a passenger has not got vested in her at the date of her death a cause of action against her husband for damages for the loss of her normal expectancy of life. So a claim for contribution against the husband by a joint tortfeasor whom the husband (as his wife's administrator) sued, must fail.

SQUARE *v.* MODEL FARM DAIRIES BOURNEMOUTH, LTD., (1939) 2 K.B. 365.

Sale of goods—Breach of warranty—Fraudulent misrepresentation—Statutory duty—Food and Drugs (Adulteration) Act, 1928 (*c.* 31), *S.* 2*—Breach of—Remedy if restricted to the penalty.*

Certain milk consumed by the plaintiffs (purchaser and his relatives) proved to be contaminated and plaintiffs became ill and suffered serious loss. The plaintiffs claimed damages for misrepresentation, breach of warranty and breach of statutory duty under Food and Drugs (Adulteration) Act, 1928, S. 2. Damages of £400 was awarded on the basis of breach of implied term of contract and there was no appeal regarding it on the other points. On appeal,

Held, there was no misrepresentation: Food and Drugs (Adulteration) Act, 1928, deals with relations of vendor and purchaser and does not give new rights to consumers who are not parties to the contract. Assuming there was an offence under S. 2 of the Act, that has only penal consequences and did not give new rights of action for breach of duty imposed by it.

CLAYDON *v.* SIR LINDSAY PARKINSON, LTD., (1939) 2 K.B. 385.

Master and servant—Employee of a sub-contractor—If entitled to claim damages against head contractor for injuries due to breach of statutory duty owed to his immediate employee.

The employee of a sub-contractor of the defendant a building contractor, had erected a scaffolding which broke under the plaintiffs weight in the course of his work. In an action for damages for injuries by the plaintiff against the head contractors based on a breach of statutory regulation [Building Regulations, 1926, Paras. 1, 4 and 14 (1)] by the defendant in not having a proper scaffolding.

Held, that the statutory duty is one owed by the employer to the workmen he employs and the plaintiff cannot succeed in his claim against the head contractor.

TRIPLEX SAFETY GLASS CO. *v.* LANCEGAYE SAFETY GLASS (1934), LTD., (1939) 2 K.B. 395.

Practice—Discovery—Incriminating interrogatories—Privilege in answering—Company if entitled to.

The plaintiff in a suit for libel and slander against the defendant company and one *L* sought to interrogate both defendants in order to obtain admissions (*a*) that they published defamatory libels, (*b*) that they were actuated by malice, and (*c*) that *L*, "acting on his behalf and on behalf of the defendant company" spoke and published words defamatory of the plaintiff company which had been previously published and subsequently repeated in the libels complained of. The defendants declined to answer on the ground that the answers would tend to incriminate them.

Held, (i) the mere fact that a party or a witness swears that his answers would tend to criminate him is not conclusive and the Court may have a duty, notwithstanding the assertion of a claim of privilege to compel him to answer ; (ii) the Court will insist upon an answer if the witness is trifling with the authority of the Court and availing himself of the rule of law to keep back the truth having in reality no ground whatever for claiming the privilege; (iii) the power of the Court to insist on an answer is not limited to a case of *mala fides* but extends to any case in which it is not made to appear to the Court

that there is reasonable ground to apprehend danger to the witness from his being compelled to answer. On the facts it is impossible to say that *L's* objection is *mala fide* and the answer to the interrogatories might tend to criminate him. A limited company may be indicated for libel and the claim of privilege is not limited to natural persons and it could be taken advantage of by a corporation. The defendants were entitled to refuse to answer the interrogatories.

STEVENS *v.* TIRARD, (1939) 2 K.B. 410.

Income-tax—Finance Act (1920), *S.* 21—*Payment of money to wife on condition that she is only bound properly to maintain the children—If money to which child is entitled in his own right.*

By an order of the Divorce Court, the respondent was ordered to pay his wife, who divorced him certain sums in excess of £50 per annum for the maintenance and education of the three children.

Held, that it cannot be said that the child is entitled in his own right to money paid to his guardian for his maintenance. The money is not impressed with a trust but is paid upon condition.

WATKINS *v.* COMMISSIONERS OF INLAND REVENUE, (1939) 2 K.B. 420.

Income-tax—Sums paid by husband annually to make up the deficiency in wife's income for maintenance in a mental institution in pursuance of an undertaking in lunacy proceedings—If annual payment within Finance Act, 1918, *S.* 27—*If income in the hands of the payee or merely expenditure of husband's income—Liability of husband for sur-tax.*

On a case stated by the Commissioners, *held*, that sums paid (in pursuance of an undertaking in lunacy proceedings) by a husband annually to make up deficiency in wife's income for her maintenance in a mental institution, do not fall within the Finance Act, 1918, S. 27 and are merely expenditure of the payer's income and were not proper deductions in arriving at the total income for the purposes of sur-tax. There was no distinction between this and payments under order of the Divorce Court.

In re THE NORTH BUCKS FURNITURE DEPOSITORIES, LTD., (1939) 1 Ch. 690.

Companies—Companies Act, S. 170—*Rating authority in respect of non-payment of rates—If " Creditor " entitled to present winding up petitions.*

Under S. 170 a local authority which is in a position to recover rates is a creditor within the meaning of that section and is therefore entitled to present the petition for winding up of a company.

ANTOFAGASTA (CHILI) AND BOLIVIA RAILWAY CO., LTD. v. SCHRODER, TIRAKS AND WATERHOUSE, (1939) 1 Ch. 732.—

Companies—Companies Act (1929), *S.* 75—*Re-issue of debentures—If date of redemption could be postponed.*

The debentures which are re-issued or the debentures which are issued in their place, must contain the same provisions as to redemption as the original debentures which have been redeemed.

JOTTINGS AND CUTTINGS.

Lord Mansfield and the Sailor.—Pepys in his Diary tells us that he was present at a trial at the Guildhall in 1663 concerning the fraud of a merchant adventurer who had sought to make the insurers pay by wrecking his vessel off the French coast. The diarist's comment on the evidence is interesting ; he said that "it was pleasant to see what mad sort of testimony the seamen did give, and could not be got to speak in order ; and then their terms such as the judge could not understand. And to hear how sillily the counsel and judge would speak as to the terms necessary in the matter ; and, above all, a Frenchman that was forced to speak in French and took an English oath he did not understand, and had an interpreter sworn to tell us what he said, which was the best testimony of all." Certainly to an onlooker it must have been a singularly amusing instance of the difficulties arising from the confusion of tongues. But the most dramatic case in which sailor's terminology provided no little amusement was one at which no less distinguished a judge than Lord Mansfield presided. The action arose out of a collision between two vessels—a fruitful source of litigation in the Admiralty Court—and one of the nautical witnesses in the course of his evidence said that at the material time he was standing "abaft the binnacle." With a proper desire to master the facts Lord Mansfield said : "Stay a minute, witness ; you say that at the time in question you were standing abaft the binnacle ; now tell me where 'abaft the binnacle is'." This question appeared to be too much for the nautical witness, who, it should be mentioned, was said before entering the witness-box to have taken a copious draught of neat rum ; so turning round upon the crowded Court with an expression of intense amusement, he exclaimed at the top of his voice : "He's a pretty fellow for a judge. Bless my jolly old eyes"—or words with a stronger implication—"You have got a pretty sort of landlubber for a judge. He wants me to tell him where 'abaft the binnacle' is." The last word, however, was with the judge, who uttered, with great good humour : "Well, my friend, you must fit me for my office by telling me where

'abaft the binnacle' is; you've already shown me the meaning of half-seas over!"—*L.T.*, *1939*, *p. 11.*

False Quantities.—It was said that few things caused such real pain to Lord Mansfield as when a member of the Bar pronounced a Latin word with a false quantity. It is told of him that on one occasion a member of the Scots Bar, and those of that body were apparently at that time not so fastidious in this matter as their English confreres, had to make use of the term "curator," and in doing so pronounced it as "curator," which brought down a reproof in these words: "Curators! I wish our countrymen would pay a little more attention to prosody." This in its turn brought forth the witty rejoinder: "My Lord, I can assure you that our countrymen are very proud of your Lordship as the greatest senator and orator of the present age." A somewhat similar story, slightly varied in phraseology, has been told of another judge of Scottish ancestry and a later member of the Scots Bar equally ready in retort. To many it must seem, however, not a little strange that a false quantity in Latin is so heinous in the speaker and so mirth-provoking to the hearer, whereas a similar solecism in English is overlooked as of comparatively no importance.—*L.T.*, *1939*, *p. 12.*

Free fight about Flogging.—The hopes of the good women and of the Judges who would keep the "cat" have been revived by the announcement that a free fight is to take place on the floor and in the lobbies of the House on the subject of corporal punishment; while those who would put it out for good are showing symptoms of slight depression. Sir Samuel Hoare, it is said, will appeal to reason, and Mr. Chamberlain will be with him in the belief that flogging does more harm than good. On the other hand, the vote being free, it is thought that Government supporters will not be wholly unimpressed by the conservative women's avowal of faith in the cat's efficacy; while many opposition members will enjoy the novelty of sharing the same opinion and the same lobby with the Secretary of State for Home Affairs. After the Commons, whatever happens therein, will come the Lords.

Mr. Heber Hart has reminded the *Times* of a leader in which it was stated that the only relevant question is whether corporal punishment deters "in such an exceptional degree as to outweigh the obvious objections to it. The considered conclusion of the Departmental Committee, after thorough analysis of the results of experience, is that it does not." Mr. Hart calls attention to the absence of any successful challenge to the reliability of the evidence considered by the Committee, or to the process of reasoning by which they arrived

at their conclusions. "If their Report is incontrovertible, should not the opposition to its recommendations cease?"—*L.J., 1939, p. 12.*

Tit for Tat or Homœopathy?—Writing merely as "Outlaw," I should say that the opposition should cease, but that it will not; and that until their favourite is dead and buried they will go on fighting for its survival. Perhaps the strongest evidence of the unselfish devotion of some of them is this: that while frankly admitting and declaring that early floggings and canings have made them what they are, they still believe the cat is an influence for good.

As the opposing parties stand in battle array the *casus belli* is not that Sir Samuel Hoare and his people do not abhor with detestation equal to that of his opponents the sort of crime which may now be punished by flogging. Nor is it, so far as one may judge from the arguments thus far used in the controversy, that the cat o' nine tails has proved a deterrent to any noticeable degree in the past. The profloggers feel, however, that it ought to, really; and, anyhow, that it is the only stuff to give the kind of rotters who commit the filthy kinds of violence for which they would apply it. "Give 'em", they say in effect, "a taste of their own medicine, the only punishment such low fellows can appreciate."

"The crime is indeed beastly," say the others, "but your punishment is beastly, too; it tends to make you so, irrespective of its effect on the criminal and the unfortunate executioner. Demonstrably it does not deter (see Report)."

In Mr. Hart's words:

"Where punishment is accorded not merely for the protection of society or the reformation of the criminal, but is retaliatory, vindictive, or retributive in character, it becomes necessarily demoralising to those who administer it, and to those who are responsible for its infliction. As soon, therefore, as a penalty which involves acute bodily suffering is found, in fact, not to be specially deterrent, and, accordingly, not to be necessary, the evil of its retention as a feature of our penal system becomes apparent."—*L.J., 1939, p. 12.*

Corporal punishment for Women.—Old ideas do give place to new, even on such matters as corporal punishment. Time was when a husband could lawfully administer it to his wife; and wives, according to some authorities, are not substantially worse than they were.

It was in the present century that Grantham, J., on the South-Eastern Circuit, offered advice from the Bench to husbands who were unfortunate enough to find their domestic peace disturbed.

"The prisoner," he said, "was justified in believing that his wife had formed an unholy affection for another man. If he had

contented himself with boxing her ears it would only have served her right, for her conduct was enough to drive any man out of his mind." Soon afterwards there appeared in the press a protest from Lady Harberton, who said that "assaults on women are already far too common, without a Judge on the Bench going out of his way to counsel an utterly illegal act," and called upon Grantham, J., promptly to undo the mischief which the publication of his views on the adjustment of matrimonial disputes would infallibly bring about. —*L.J.*, *1939, p. 12.*

Ancient rights:—In that book of ancient fundamental truths of the common law, Matthew Bacon's *New Abridgment of the Law*, is set out the contemporary learning on the mutual relations of husband and wife.

"The husband," he wrote, "hath, by law, power and dominion over his wife, and may keep her by force within the bounds of duty, and may beat her, but not in a violent or cruel manner; for, in such case, or if he but threaten to beat her outrageously, or use her barbarously, she may bind him to the peace by suing a writ of 'supplicavit' out of Chancery; or may apply to the Spiritual Court for a divorce '*propter sævitiam*'."

This power of judicious corporal punishment in time of need was whittled down, principally and not unnaturally, during the reign of Queen Victoria. The sayings in Bacon's *Abridgment* became things of the past, and could no longer be cited as a binding authority in the Courts of the Law. Lord Halsbury, when the passage aforesaid was read to him by hopeful counsel, was moved to scorn. "Such quaint and absurd dicta," said he, "as are to be found in the books as to the right of a husband over his wife in respect of personal chastisement are not now capable of being cited as authorities in this or any civilised country."

That some wives may be very cruel, and that their husbands may not lawfully beat them, is known in every police court. Is it that the Conservative women still believe, regarding very bad men, that "the more you beat 'em the better they be"?—*L.J.*, *1939, p. 12.*

The Lord Chancellor on the Rule of Law.—Responding to the toast of His Majesty's Judges at the customary dinner given by the Lord Mayor to members of the judiciary on Tuesday, Lord Maugham, L.C., referred to a number of legal changes and appointments during the past year, and recalled that he had set up a number of important committees which included subjects of such diversity as law reporting, poor persons rules, the law of defamation and shorthand notes in Court; and he expressed the hope that when he received the reports

it would be possible to bring about some much needed reform. He emphasised the fact that the subjects of the King, whether residing in this country or beyond the seas, lived under the dominion of law. Our true liberties could not be interfered with except by due process of law. But it was not only on good laws that our peace and tranquillity depended. It was necessary also that they should be well administered, and this was all the more essential in such a far extending empire as ours. In many lands where British justice was administered there was the same equal justice for rich and poor, white and coloured, educated and ignorant, civilised and savage. The Lord Chancellor gave instances of what he was saying, and concluded by observing that the judges and the lawyers from the highest to the humblest throughout the empire had in this matter a single philosophy and a single creed. They stood for the ancient traditions of law and justice. Those were the ultimate reasons for their existence and they must of necessity make every effort and every sacrifice to retain those traditions unimpaired.—*S. J., 1939, p. 533.*

The Lord Chief Justice.—On the same occasion Lord Hewart, C.J., alluded to the despatch of legal business. There was no time, he said, when the work of the judges was greater in volume, or more punctually performed. There were people who applied the term arrears to every case set down, and who thought the whole body of cases must somehow be immediately and simultaneously tried the moment each came into existence. Perhaps that system would flourish in that happy time, fraught with untold blessings for solicitors, barristers, juries and the public, when every court would sit all the year round, seven days a week, twenty-four hours a day. Meanwhile judges would continue to the best of their ability to discharge their task steadily, vigilantly, and courageously.—*S. J., 1939, p. 533.*

The Week's Personality.—In 1835, Chief Justice Marshall breathed his last without pain, his mind as clear and strong as ever. One who was present tells how he "met his fate with the fortitude of a philosopher and the resignation of a Christian." The last thing taken from his body was a locket which three and a half years before his beloved wife had hung about his neck just before she died. Her loss had left him a changed man and he had never recovered from it. Old memories must have filled his mind as he lay expiring in philadelphia, for nearly sixty years earlier, as a lieutenant in the armies raised to assert American independence, he had marched through the city on the road from Valley Forge to Monmouth. It was in 1801 that he was appointed Chief Justice. The defective organisation of the

Supreme Court had brought its dignity to a very low ebb, but that extraordinary ability, that courage, that unswerving impartiality, that absolute control of nerves and temper which made him one of the greatest men of his country enabled him to confer on it a high prestige. All America felt that his place could never be supplied as it honoured " the Soldier, the Orator, the Patriot, the Statesman, the Jurist, and, above all, the good and virtuous man."—*S. J., 1939, p. 541.*

Horse Guards' Right of Way.—A recent note in a newspaper pointed out that passage under the Horse Guards arch is not a royal prerogative, though it is permitted to so few people that it has come to be so regarded by the layman. The select few are rather arbitrarily chosen and this once gave Sir Frank Lockwood an opening for one of his jokes. One morning he rode across the Horse Guards Parade to Parliament Street. On being stopped by the sentry he weightily informed him that he was " one of Her Majesty's Counsel." This so took the man by surprise that he at once apologised and let Lockwood through, saluted by the guard. No embarrassing sequel followed as on the earlier occasion when Lord Brougham had driven through in his coach on the way to a Drawing Room at the Palace. The officer of the guard, having stopped the Lord Chancellor, tried to explain to him the delicate distinction which allowed the Speaker of the Commons to go that way but not the Speaker of the Lords. Brougham duly gave orders for the coach to turn back, but owing to a misunderstanding the coachman whipped up his horses and drove into the Park. Questions were afterwards asked in the House of Lords as to whether the King's Guard had been forced by the Lord Chancellor, and Brougham, complaining bitterly of being thus " put on trial on the Woolsack," explained what had happened.—*S. J., 1939, p. 541.*

The Same for Rich and Poor.—That there was an enlightened Magistrate in the Mansion House 100 years ago, who realised that the " same law " for rich and poor was not quite equal, appears from a report reprinted in the *Times*. For the like offence should there not be a graduated scale of fines, in accordance with the income and super-tax assessment of the wrongdoer ?

" A man of very respectable appearance, named Priestley, of Hyde Street, Bloomsbury, a descendant, we understood, of Dr. Priestley was brought up (at the Mansion House) charged with having been blind drunk in a cab........ The Inspector said that in a private pocket of the drunken gentleman the person who took his clothes to be cleaned found 140*l*. in bank-notes and a bundle of railway shares.

Defendant: It is quite true, I had the property about me.

Sir P. Laurie: It was well you fell into the hands of our police; if you had not probably you would have lost all the money.

Defendant: I should have deserved it for allowing myself to be led to drink myself into such a brute........

Sir P. Laurie: I believe that the Magistrates will soon have the power of sending drunkards to prison for seven days for each detected offence of the kind. It is too hard that a rich man, to whom this fine of 5*s*. is nothing, should be punished in no other way, while the poor man, to whom that sum is a great deal, should be subjected to the same penalty. Take care of a week's imprisonment.

Defendant: I never will drink again.

Sir P. Laurie: Very well; pay the penalty, and pay the cabman and the police for taking care of you."—*S. J., 1939, p. 32.*

Lord Chancellor Chelmsford.—In the course of his recent miscellaneous reading the present writer has met with various references to Lord Chelmsford which greatly interested him and piqued his curiosity to know more regarding him and his career, which began in the Navy but was soon transferred to the law, in which he was destined to rise to the highest position it can offer to its votaries. At the same time, the writer was much struck in reading the notice of this famous lawyer in the pages of the Dictionary of National Biography to observe the small space allotted to him—three columns—although the contributor was no less distinguished a writer than the late Lord Sumner, at that time merely J. A. Hamilton, as compared with the space devoted to another distinguished man some pages earlier in the same volume, namely, William Makepeace Thackeray, who is given no less than twenty-nine columns. We may leave the nice question as to these relative appraisements and be content to follow in imagination the career of Frederick Thesiger, who was eventually to be ennobled as Lord Chelmsford.—*L.T., 1939, p. 29.*

Lawyer and Wit.—Thesiger's legal youth was spent in the chambers of George Sowley Holroyd, who later became a Judge of the King's Bench, and who apparently was able to indoctrinate his pupil to some purpose. According to his own memoranda, the pupil was exceedingly diligent in his studies, regaling himself on such appetising fare as Fearne on Contingent Remainders and Shepherd's Touchstone, and other equally fascinating volumes. Called to the Bar in 1818, he joined the Home Circuit, of which he was to become the life and soul, delighting all with his wit, except, perhaps, those who were its occasional victims. Serjeant Robinson, who belonged to the same circuit, tells us in his chatty volume that of the jokes that passed among its members, if it was respectable it was attributed to Thesiger,

whereas if it was not sufficiently clothed it was fathered upon Serjeant Murphy, while if it savoured of conceit or self-complacency Samuel Warren was sure to become the recipient. At Warren Thesiger appears to have loved to poke his fun, as, for example, on the occasion when Warren, in boasting of his intimacy with members of the peerage, mentioned that while dining lately at the Duke of Leeds, he was surprised at finding no fish of any kind served. "That," interposed Thesiger, "is easily accounted for. They had probably eaten it all upstairs"!—*L. T., 1939, p. 29.*

BOOK REVIEWS.

THE INDIAN INCOME-TAX ACT by Mr. A. N. Iyer, Advocate. Published by The Company Law Institute, Thiagarajanagar, Madras. 1939 Edn. Price Rs. 15 per set.

Mr. A. N. Aiyar is so well known to the public as the Editor of the "Federal Law Journal of India", "Company Cases" and "Income-tax Reports" that he needs no introduction from us. We are in receipt of his "Commentaries on the Indian Income-tax Act, 1922" published in two volumes. The first volume covers nearly 600 pages and has a neat introduction appended to it explaining in a short compass the changes introduced by the Amendment Act of 1939. In the first volume the Amending Act of 1939 is given separately and next the Income-tax Act of 1922 as amended by the Act of 1939 is given. The amendments are printed in italics for easy reference. The Enquiry Committee Report, a summary of the abstracts of proceedings of the Legislative Assembly and the Council of State, and the report of the Select Committee are also printed. It is in the second volume that we get a neat commentary on the sections of the Act running to about 730 pages and fairly full extracts of the Proceedings of the Legislative Assembly and the Council of State. The rules made by the Central Board of Revenue in exercise of the power given to it under S. 59 are also given, so that the compilation of Mr. A. N. Iyer is full and complete. The commentaries also are carefully written under appropriate headings and the case-law has been well digested and brought up-to-date. We do not find much of the editor's own views on points where there is a conflict in the case-law; but the conflict is well analysed and presented. But considering the hurry with which the book had to be published to serve the immediate need of the profession, one could not expect the author to have the leisure to indicate his own views. We have no doubt that very soon another edition will come up and that there the author will indicate his considered opinions on such conflicts. The get up of the book is good and the type also bold.